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| | EXAMINER |
|---|---|
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| ART UNIT | PAPER NUMBER |
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| 2163 | 14 |

DATE MAILED:
12/18/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

Commissioner of Patents and Trademarks

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☒ Responsive to communication(s) filed on *Nov 13, 2000* _____ .

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire ____3____ month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**

    ☒ Claim(s) *1-49* _____ is/are pending in the application.

        Of the above, claim(s) *1-3 and 21* _____ is/are ~~withdrawn from consideration.~~ Canceled (A.R.B.)

    ☐ Claim(s) _____ is/are allowed.

    ☒ Claim(s) *4-20 and 22-49* _____ is/are rejected.

    ☐ Claim(s) _____ is/are objected to.

    ☐ Claims _____ are subject to restriction or election requirement.

**Application Papers**

    ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

    ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

    ☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

    ☐ The specification is objected to by the Examiner.

    ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

    ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

        ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

        ☒ received.

        ☐ received in Application No. (Series Code/Serial Number) _____ .

        ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

    *Certified copies not received: _____ .

    ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

    ☒ Notice of References Cited, PTO-892

    ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

    ☐ Interview Summary, PTO-413

    ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

    ☐ Notice of Informal Patent Application, PTO-152

*--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---*

# DETAILED ACTION

## *Continued Prosecution Application*

1.    The request filed on 11/13/00 for a Continued Prosecution Application (CPA) under 37

CFR 1.53(d) based on parent Application No. 09/043406 is acceptable and a CPA has been

established. An action on the CPA follows.

## *Claim Rejections - 35 USC § 102*

2.    The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.    Claims 4-20, 22-49 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by

Babayev, et al (US Patent 5,615,121).

As per claims 4-6, 10, 15 , 18, 19, 22, 23-25, 27-30, 34, 37, 38, 39, 40, 42, 43, 45, 46, 47,

48, 49, Babayev, et al discloses:

> an input.../receiving a request.../receiving a service request...(Col. 14, lines 35-40);
>
> a response output.../outputting from said service provider.../an output for providing a

response to the service request.../providing a response to the service request...(Col. 1, lines 7-9,

Col. 14, lines 55-57);

processing means.../wherein each of said systems is associated with a plurality of

organisations, each of said systems having processing means.../service request processing

means.../processing the service request.../wherein the service request is processed by accessing

one or more of the previously...(Col. 2, lines 28-30, Col. 14, lines 58-64, Col. 12, lines 47-48, Col

13, lines 20-24);

means to access an up-date table.../an up-datatable data store.../wherein the processing

means is adapted to process a service request by accessing one or more of the previously

established.../accessing an up-datatable data store.../storing data relating to the services

offered.../accessing the stored data.../identifying component processes for use in

provisioning.../establishing conditions.../provisioning a selected set of component processes.../said

negotiation establishes and stores a set of conditions...(Col. 6, lines 36-44, Col. 15, lines 41-48);

transmitting said information to said entities...(Col. 8, lines 50-56);

means for scheduling tasks/resources.../scheduling tasks/resources.../further comprising

scheduling resource(s) for use necessary to provide a service...(Col. 16, lines 9-14);

wherein the processing means is adapted, in response to failure/inability...to:

reschedule...(Col. 9, lines 54-60);

transmit a message...(Col. 9, line 60-Col. 10, line 2);

relocate the service with another service...(Col. 10, lines 4-15, Col. 15, lines 57-

67).

wherein the way in which the processing means is adapted to...

process a service request by accessing one or more parameters in the data store...processing the request using the one or more.../initiating one or more component processes.../a service request is processed by accessing the stored set of conditions...(Col. 6, lines 36-52);

producing a response at the output...sufficient capacity is available...insufficient capacity is available...sufficient capacity is available to provide the service if modified.../controlling one or more resources in the environment available for use by said service provider, wherein the processing determines the nature of said response...(Col. 8, lines 36-44).

a request output connected to distributed processing environment for requesting a component service from another entity...(Col. 2, lines 41-47).

means arranged to provide more than one instance of a service.../providing more than one instance of a service...(Col. 15, lines 57-67).

wherein the plural systems are connected by a communications network....(Col. 14, lines 35-40, Col. 1, lines 7-9, Col. 14, lines 55-57, [input/output means]);

negotiating means.../initiating the negotiating to reopen negotiation...(Col. 2, lines 11-47);

wherein one or more of said established conditions has an associated expiry time...(Col. 1, lines 7-10);

wherein the processing means is adapted:

to detect an expired or undefined condition...to trigger the negotiation means.../an expired or unidentified condition is detected in the data store...a substitute condition is established...(Col. 7, lines 15-22 and lines 37-54, [condition is not met]).

initiation means....(Col. 2, line 57-Col. 3, line 11).

provisioning a requested service requires provision of a selected set of component processes...(Fig.'s 2A-2E);

the negotiating means establishes and stores a set of conditions...(Col. 6, lines 36-44);

The following is inherent with Babayev, et al's system because Babayev, et al's system discloses a set of constraints and conditions which need to be met in order to create a schedule. These constraints are stored as data structures and contract is nothing more than a representation of certain conditions which must be met;

wherein, in the event a service provider and a service requester agree a contract to provide and accept a service respectively, a copy of the contract is stored as a data structure...

As per claim 7, 31, Babayev, et al discloses:

comprising a control output connected by said distributed processing environment...(Fig. 2A, [120]);

As per claim 8, 32, Babayev, et al discloses:

wherein the processing means is adapted to receive data from the tasks...(Col. 10, lines 4-11).

As per claim 9, 33, Babayev, et al discloses:

wherein said data includes task/resource performance...(Col. 2, lines 37-40).

As per claim 11, 35, 13, 14, 26, Babayev, et al discloses:

means for accessing one or more resources available.../using a programed computer to

negotiate.../further comprising means to schedule resource(s) for use by the system necessary to

provide a service.../further comprising means to initiate the negotiating.../further comprises

initiation means...(Col. 2, line 57-Col. 3, line 11);

said negotiating means including a data store...(Col. 6, lines 36-52).

As per claim 12, 36, Babayev, et al discloses:

means to update said data about said system...(Col. 16, lines 32-40).

As per claim 16, 17, 41, Babayev, et al discloses:

a data store.../means to access said data store...(Col. 15, lines 41-48);

means to transmit.../wherein said means to transmit are operable in the absence of a

specific request...(Col. 9, line 60-Col. 10, line 2).

As per claim 20, 44, Babayev, et al discloses:

wherein said virtual organisation exists for a pre-determined period...(Col. 13, lines 28-

31).

## *Conclusion*

4.     An inquiry concerning this communication or earlier communications from the examiner

should be directed to Akiba Robinson-Boyce whose telephone number is (703) 305-1340. The

examiner can normally be reached on Monday-Friday from 6:30AM-3:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Tariq Hafiz, can be reached on (703) 305-9643. The fax phone number for the organization where

this application or proceeding is assigned is (703) 305-3988.

An inquiry of a general nature or relating to the status of this application proceeding should

be directed to the receptionist whose telephone number is (703) 305-3900.


**Akiba Robinson-Boyce**

**Patent Examiner**

**Group Art Unit 2765**

**December 11, 2000**

TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100